

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

THOMAS W. FARR,)	
)	
Petitioner,)	
)	
v.)	Case No. 3:06-0103
)	Judge Echols
)	
HOWARD CARLTON, WARDEN,)	
)	
Respondent.)	

ORDER

This matter is before the Court on a Report and Recommendation ("R & R") (Docket Entry No. 11) in which the Magistrate Judge recommends that Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus (Docket Entry No. 9) be granted; the action be dismissed; and a Certificate of Appealability not issue. The R & R was issued on July 17, 2006, and Petitioner has filed no objections thereto even though he was specifically instructed about his opportunity to do so (Docket Entry No. 11 at 7).

This Court has thoroughly reviewed Petitioner's Petition under 28 U.S.C. § 2254, Respondent's Motion to Dismiss and the R & R. The Court finds the Magistrate Judge properly concluded that, under 28 U.S.C. § 2244(d)(1), the Petition was filed more than five months late and that no arguments have been advanced for equitable tolling of the statute of limitations. The Court further finds that reasonable jurists would not find these conclusions debatable.

Accordingly, the Court rules as follows:

(1) The Report and Recommendation, Docket Entry No. 11, is hereby ACCEPTED;

(2) Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus, Docket Entry No. 9, is hereby GRANTED;

(3) This case is hereby DISMISSED WITH PREJUDICE; and

(4) A Certificate of Appealability will not issue because Petitioner cannot demonstrate that reasonable jurists would find the Court's assessment of the untimeliness of his Petition debatable or wrong.

It is so ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", written in a cursive style.

ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE